

THE SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

AUG 15 1980

MEMORANDUM FOR DIRECTOR, DEFENSE INTELLIGENCE AGENCY

SUBJECT: Extension of Classification Beyond 20 Years

This is in response to your memorandum of June 3, 1980. I have determined that the security classification of information falling in the following categories shall be continued beyond 20 years:

a. Counterintelligence information as defined in Section 4-202 of Executive Order 12036 of January 24, 1978.

b. Information revealing intelligence sources, methods, or activities including intelligence plans, policies, or operations, when it is determined that declassification would reasonably be expected to cause identifiable damage to the national security.

These categories of information shall be subject to requirements of Section 3-402 of Executive Order 12065 "National Security Information" of June 28, 1978, and to further declassification review 50 years from the date of origin or the date of classification. The material containing such information shall be marked accordingly.

Specific items of information within the cited categories may be declassified earlier by you or reviewers designated by you.

Harold Brown

Copy furnished:
Archivist of the United States

CATEGORIES OF INFORMATION FOR WHICH THE
DIRECTOR OF THE INFORMATION SECURITY OVERSIGHT
OFFICE (ISOO) HAS GRANTED WAIVERS OF THE
10-YEAR REVIEW REQUIREMENT OF SECTION 5-4.1 OF
EXECUTIVE ORDER 12065

*Senior Officials
All Executive Branch Agencies
circa: October 1977*

The Director of the Information Security Oversight Office has granted a waiver from the 10-year review requirements prescribed in Section 5-4.1 of Executive Order 12065 for the following categories of information:

- Intelligence documents and/or material(s) constituting or containing identifiable foreign government information as defined in Section 5-103 of Executive Order 12065 and Section I F.1 of Information Security Oversight Office Directive No. 1.
- Information constituting or concerning cryptology, including information on the development and/or use of any method, means, system, technique, procedure, activity, installation, device, material or equipment used for the acquisition, production, or transmission of signals intelligence or for the protection of classified communications or data."
- Information constituting or concerning counterintelligence, defined by Executive Order 12036 of January 24, 1973 (section 4-202) as "... information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs."
- Information involving or concerning intelligence sources and methods and covered under special access, distribution and protection programs continued or established pursuant to Section 4-2 of Executive Order 12065.
- Information which identifies any undercover personnel or unit(s) or clandestine human agent(s) of a National Foreign Intelligence Board or other United States Intelligence Community member agency; or which otherwise reveals information classifiable under the provisions of Executive Order 12065 concerning intelligence sources, methods or activities including intelligence plans, policies, or operations of such an agency or any element thereof.
- Intelligence reports and other documents which contain information covertly acquired and which bear the legend, "THIS IS UNEVALUATED INFORMATION" or an equivalent marking, or are similar in format or contents to items so marked; and in which the formats used, subject matter, source descriptions or other content would, in collections or aggregates of such reports and/or other documents, reveal the nature, scope or extent of United States intelligence activities in, or in relation to, particular foreign countries or areas or would identify intelligence sources or methods.

The application of the 10-year review waiver shall be strictly limited to information described above that:

- has been systematically reviewed following its 10th anniversary, or its 30th anniversary in the case of foreign government information;
- is identified through such review as requiring continued classification for a period in excess of twenty additional years;
- cannot, when so reviewed, be assigned a definitive date or event for declassification, thus requiring at least one additional review; and,
- has its classification extended beyond 20 years, or 30 years in the case of foreign government information, by an agency head or official designated by the President as authorized to do so under Executive Order 12065.

Information to which this waiver is applied shall be re-reviewed 30 years after its initial systematic review, and thereafter at 10-year intervals if necessary.

This waiver applies only to the systematic review process prescribed in Section 3-401 of Executive Order 12065. Information requested under the Freedom of Information Act or the mandatory review provisions of Executive Order 12065 will continue to be processed in accordance with the Act and the Order, whether or not the information falls within the categories of information for which this waiver is granted; nor shall this waiver be construed as an exemption from any requirements imposed on an agency by Section 3-503 of E.O. 12065.

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THE PRESIDENT

lines shall state specific, limited categories of information which, because of their national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond twenty years is needed. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information. All information not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

3-403. Notwithstanding Sections 3-401 and 3-402, the Secretary of Defense may establish special procedures for systematic review and declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review and declassification of classified information concerning the identities of clandestine human agents. These procedures shall be consistent, so far as practicable, with the objectives of Sections 3-401 and 3-402. Prior to implementation, they shall be reviewed and approved by the Director of the Information Security Oversight Office and, with respect to matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Disapproval of procedures by the Director of the Information Security Oversight Office may be appealed to the National Security Council. In such cases, the procedures shall not be implemented until the appeal is decided.

3-404. Foreign government information shall be exempt from automatic declassification and twenty year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty years from its date of origin. Such review shall be in accordance with the provisions of Section 3-3 and with guidelines developed by agency heads in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information.

3-405. Transition to systematic review at twenty years shall be implemented as rapidly as practicable and shall be completed no more than ten years from the effective date of this Order.

3-5. *Mandatory Review for Declassification.*

3-501. Agencies shall establish a mandatory review procedure to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information. This procedure shall apply to information classified under this Order or prior Orders. Except as provided in Section 3-503, upon such a request the information shall be reviewed for possible declassification, provided the request reasonably describes the information. Requests for declassification under this provision shall be acted upon within 60 days. After review, the information or any reasonably segregable portion thereof that no longer requires protection under this Order shall be declassified and released unless withholding is otherwise warranted under applicable law.

3-502. Requests for declassification which are submitted under the provisions of the Freedom of Information Act shall be processed in accordance with the provisions of that Act.

3-503. Information less than ten years old which was originated by the President, by the White House Staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator

TO: (Name, office symbol, room number, building, Agency/Post)		Initials	Date
1.	C/RSB		
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As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

1 & 2: Mr. White asked me to look into this yesterday. I don't believe a formal response is necessary at this time.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> RSB	Phone No.

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OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

U S GOVERNMENT PRINTING OFFICE: 1979-281184/1

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JW 20 February 1981

Mr. White,

Re the attached:

Based on the statement in the next to the last paragraph concerning "further declassification review," Secretary Brown's ~~xxxx~~ 15 August 1980 memo to DIA appears to ~~xx~~ concern guidelines for systematic review. An additional indicator is the fact that his 'a' and 'b' paragraphs are restatements of the review guidelines approved by ISOO in late 1979 (see attached).

The ISOO waiver, however, provides for a re-review 30 years after initial review while Secretary Brown's memo states it will be 10 years--"...further declassification review 30 years from the date of origin or the date of classification."

If ISSO waivers are permissive and not ~~mandatory~~ mandatory (which we assume them to be) there would be no problem except that section 3-403 of E.O. 12065 (also attached) states that procedures for systematic review of information pertaining to intelligence sources and ~~xxxx~~ methods shall be reviewed and approved by the Director of Central Intelligence. (We have ~~xxx~~ no knowledge that this took place.) Further, the language in the first paragraph ("I have determined") ~~xxxxxxx~~ indicates the guidelines were issued unilaterally.

ISOO will be here on the 25th; we could ask them to look into the matter without revealing that it was us who asked.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)				
FROM: <div style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></div> SA/DDS&T 6E46, Hqs.		EXTENSION <div style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></div>	NO. <u>OIS 81-138</u>	STAT SIAI
			DATE 10 February 1981	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. Thomas White, OIS 1206 Ames Bldg.				<p>Per our conversation after the PRB meeting today, attached is a copy of <div style="border: 1px solid black; display: inline-block; width: 80px; height: 20px;"></div> memo.</p> <div style="border: 1px solid black; display: inline-block; width: 120px; height: 40px;"></div>
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